

FILED
UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO

13 AUG 12 PM 4: 54

CLERK-LAS CRUCES

UNITED STATES OF AMERICA,

Plaintiff,

vs.

KENT CARTER,
KENT CARTER, AS TRUSTEE FOR
THE KENT CARTER FAMILY TRUST
PTO, AND NEW MEXICO DEPARTMENT
OF REVENUE AND TAXATION

Defendants.

Civil No: 2:12-cv-00469-WPL-LAM

REQUEST FOR INJUNCTIVE RELIEF

REQUEST FOR INJUNCTIVE RELIEF

COMES NOW Kent Carter, natural born, man claiming all of his unlimited, inherent, unalienable, God given Rights protected and secured by and through the Federal Constitution and the Constitution of the State of New Mexico, and hereby respectfully moves this Honorable Court to grant him relief from unlawful garnishment of Social Security benefit payments.

1. Plaintiff has had no opportunity to be heard. The IRS did not extend to Plaintiff an opportunity for a hearing, as stated in 26 USC §6330.
2. Plaintiff's actions are in violation of the 1997 Taxpayer's Relief Act.
3. Defendant urgently requests from this Court to issue an injunction to prohibit Plaintiff from taking any collection measures against Defendant until this Court declares otherwise. In particular, Defendant asks this Court to immediately halt Plaintiff's continuous and illegal collection of \$750, which is 100%, taken monthly from Defendant's Social Security benefits payments. (Exhibit A)

The Treasury Offset Program law only allows a TOP of 15 % to be removed from Defendant's social security check. The Tax Payer Relief Act of 1997 (Public Law 105-34) authorizes the IRS to levy "up to 15 percent of each monthly Levy Notification: Before IRS transmits the electronic file to FMS, IRS will send each tax debtor a notice that will include the tax bill, a statement of the intent to levy, an explanation of an individual's appeal rights, and an IRS telephone number for inquiries and assistance. The notice, which will be sent by certified mail to the taxpayer's last known address, will also inform the debtor that if repayment arrangements are made within 30 days, the levy will not proceed. IRS will send tax debtors who receive Social Security benefit payments an additional notice, providing another opportunity to make repayment arrangements.

To coincide with the timing of each payment, FMS will send a notice to the debtor explaining the reason for the reduced payment and giving a contact at IRS who will answer questions regarding the tax debt. At any time, either before or after the levy process begins, a debtor may make repayment arrangements with IRS, which will then release the levy.

Statutory Authority: The 1997 Taxpayer Relief Act authorizes the Internal Revenue Service (IRS) to collect overdue federal tax debts of individuals and businesses that receive federal payments, by levying up to 15% of each payment until the debt is paid.

Hearing for motion requested.

<http://fms.treas.gov/faq/index.html>

Plaintiff has not answered in over two months, as to approval or disapproval of this motion.

Respectfully Submitted,



Kent Carter
P.O. Box 5033
Carlsbad, New Mexico 88220
575-302-7340

Certificate of Service

I certify that on the 7 day of July, 2013, a true and correct copy of the foregoing REQUEST FOR INJUNCTIVE RELIEF was mailed to the Plaintiff's attorney and the United States District Court at the following addresses.

ANDREW L. SOBOTKA
ATTORNEY, TAX DIVISION
DEPT. OF JUSTICE
717 N. HARWOOD SUITE 400
DALLAS TEXAS 75201
214-880-9736/67
214 880-9742(FAX)

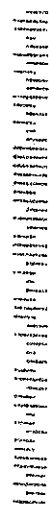
United States District Court
100 N. Church St. Ste. 280
Las Cruces, New Mexico 88001



Kent Carter

1/6

CAR



RECEIVED
UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

AUG 12 2013

MATTHEW J. DYKMAN
CLERK

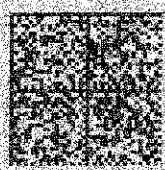
UNITED STATES DISTRICT COURT

100 N CHURCH ST.

STE 280

Las Cruces, NM

88001



US POSTAGE
ZIP 88220
02 1M
0801363179 40